

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Norfolk Division)**

BONNIE FAIRBANK,

Plaintiff,

v.

**LAW OFFICES OF SHAPIRO BROWN
& ALT, LLP, *et al.***

Defendants.

Case No. 4:13-cv-9

SBA AND PFC’S MOTION TO DISMISS

Defendants Shapiro, Brown & Alt, LLP (“SBA”) and Professional Foreclosure Corporation of Virginia (“PFC”) (collectively, the “Defendants”), by counsel, in response to the Complaint filed by Plaintiff Bonnie Fairbank (the “Plaintiff”) hereby move pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss the Complaint for failure to state a claim for which relief may be granted as a matter of law, for the reasons stated in the contemporaneously filed memorandum, and including:

1. JP Morgan Chase Bank, National Association (“Chase”) is the owner of the Promissory Note at issue in the case.
2. Chase is also the undisputed loan servicer, and, therefore, has the power to appoint trustees and prosecute the foreclosure as a matter of law.
3. As both owner and loan servicer, Chase was properly named the Plaintiff’s creditor pursuant to the FDCPA.
4. The January 11, 2012 letter did not misrepresent the identity of the creditor.

5. The foreclosure proceedings were properly authorized as Chase is both the owner and servicer of the loan.

6. Defendants did not violate the prohibition against communicating with a represented debtor where they were required by state law to provide notice to the debtor.

WHEREFORE, Shapiro, Brown and Alt, LLP and Professional Foreclosure Corporation of Virginia respectfully request that the Complaint be dismissed, that they be awarded their fees in this action, and for such other relief as may be just and proper.

Respectfully submitted,
SHAPIRO, BROWN & ALT, LLP
PROFESSIONAL FORECLOSURE
CORPORATION OF VIRGINIA
By Counsel

/s/ Bizhan Beiramee
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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of February, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the following:

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